

REMARKS

Claims 27-50 are pending, claims 1-26 and 51-52 are canceled. Claims 27 and 39 have been amended without prejudice to refiling or renewal of the original scope. Allowance of Claims 27-50 is requested.

Claims 27-50 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-12 of U.S. Patent no. 6,406,847. Without conceding to the correctness of the rejection, Applicants submit herewith an executed terminal disclaimer. Withdrawal of the rejection is requested.

Claims 27-50 have been rejected under 35 U.S.C. 112, first paragraph. The Office Action asserts that the specification is enabling for markers with mismatches of at least 5 nucleotides and a second mismatch of four nucleotides or less. Without conceding to the correctness of the rejection, Applicants have amended independent claim 27 to recite a mismatch of at least 5 nucleotides in a marker; and not more than 4 mismatches in the initiating mismatch. Withdrawal of the rejection is requested.

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number UCSF-127CON.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: September 15, 2003

By: Pamela J. Sherwood
Pamela J. Sherwood
Registration No. 36,677

BOZICEVIC, FIELD & FRANCIS LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025
Telephone: (650) 327-3400
Facsimile: (650) 327-3231